

**MINUTES<sup>1</sup>**  
**STATE OF WASHINGTON**  
**ENERGY FACILITY SITE EVALUATION COUNCIL**

**November 12, 2002 - Regular Meeting**  
4224 6th Avenue S.E., Building 1  
Lacey, Washington 1:30 p.m.

**ITEM 1: CALL TO ORDER**

**CHAIR LUCE:** The regularly scheduled meeting of the Washington State Energy Facility Site Evaluation Council for Tuesday, November 12, 2002 will come to order.

**ITEM 2: ROLL CALL**

**EFSEC Council Members**

**Community, Trade & Economic Development**  
**Department of Ecology**  
**Department of Fish & Wildlife**  
**Department of Natural Resources**  
**Utilities and Transportation Commission**  
**Chair**

Dick Fryhling  
Charles Carelli  
Jenene Fenton  
Tony Ifie  
Tim Sweeney  
Jim Luce

**MR. MILLS:** I note the presence of Chair Jim Luce, and there is a quorum.

**EFSEC Staff and Counsel**

Allen Fiksdal  
Mike Mills  
Rusty Fallis – AAG

Michelle Elling  
Mariah Laamb

**EFSEC Guests**

Karen McGaffey, Perkins Coie LLP  
Lauri Vigue, WDFW  
Rachel Shimshak, Renewable Northwest Project  
Mike Lufkin, CFE  
Tom McKinney, BPA  
Mark Anderson, CTED – Energy Policy

Laura Schinnell, Energy Northwest  
Cindy Custer, BPA  
Elizabeth Thomas, Preston, Gates & Ellis  
Andrew McNeil, Duke Energy Grays Harbor  
John Mudge, Critical Issues Council

---

<sup>1</sup> The minutes are in transcript style and have had minor editing for clarity purposes.

### **ITEM 3: APPROVAL OF MINUTES**

**CHAIR LUCE:** The first item on the agenda is approval of minutes. We have before us the minutes of August 12<sup>th</sup> and September 9<sup>th</sup> regular meetings, and then the minutes of the November 1<sup>st</sup> special meeting site visit.

**MS. LAAMB:** We have one additional set of minutes that was passed out today. The October 14<sup>th</sup> regular minutes, I just handed out in today's packet as well for approval if there's time to review those.

**CHAIR LUCE:** Is this the first time the Council Members have seen the minutes?

**MR. FIKSDAL:** We e-mailed them out late last week.

**CHAIR LUCE:** August 12<sup>th</sup>, September 9<sup>th</sup>, October 14<sup>th</sup> and November 1<sup>st</sup> minutes, has Council had an opportunity to review these minutes, and are there any additions or deletions or clarifications?

**MR. FRYHLING:** On August 12<sup>th</sup>, I wasn't a member of EFSEC for that month. I was a guest here, and I did sign the guest list, so if my name could be added there, I would appreciate it. I was at the August 12<sup>th</sup> meeting but was sitting in the audience.

**CHAIR LUCE:** So I understand Mr. Fryhling you will be abstaining from the vote for the minutes of August 12<sup>th</sup>?

**MR. FRYHLING:** Yes, I wasn't a member.

**CHAIR LUCE:** Do we have a motion to approve the minutes?

**MS. FENTON:** So moved.

**MR. CARELLI:** Second.

**CHAIR LUCE:** Discussion?

**MR. CARELLI:** Do we know which minutes we are approving? Are we including the October 14<sup>th</sup> minutes?

**CHAIR LUCE:** I was including them all at one time, an inclusive motion, but we can take them separately.

**MR. CARELLI:** No, that's fine.

**CHAIR LUCE:** And then, Dick, you will note that you're abstaining for that one set of minutes.

**MR. FRYHLING:** Yes.

**CHAIR LUCE:** Do we have a call for the question?

**MR. CARELLI:** Question.

**CHAIR LUCE:** All in favor say Aye.

**COUNCIL MEMBERS:** Aye.

**MR. FRYHLING:** Aye, with the exception of August 12<sup>th</sup>..

**CHAIR LUCE:** Thank you.

### **ITEM 4: ADOPTION OF THE PROPOSED AGENDA**

**CHAIR LUCE:** The next item on the agenda is the adoption of the proposed agenda. Do the Council Members have any changes or additions they would like to make to the proposed agenda? Hearing none, the agenda is approved.

## ITEM 5: SATSOP COMBUSTION TURBINE PROJECT

<b>Phase I – Reissuance of National Pollutant Discharge Elimination System Wastewater Permit</b>	<b>Michelle Elling, EFSEC</b>
--	-------------------------------

**CHAIR LUCE:** The first item on the agenda is the Satsop Combustion Turbine Project, Phase I - Reissuance of the NPDES Wastewater Permit. Michelle, are you making a presentation on this item?

**MS. ELLING:** Yes, thank you. If the Council would please refer to the two enclosures in your packet, the preliminary final National Pollutant Discharge Elimination System referred to as the NPDES Wastewater Discharge Permit for the Satsop Combustion Turbine Phase I Project and the response to comments received. I will provide a brief summary of the proposed action before the Council today, the reissuance of the NPDES Permit.

The initial NPDES permit for the Satsop site was developed for the 3/5 Nuclear Power Project and was revised when the Phase I Satsop Combustion Turbine Project Amendment to the Site Certification Agreement was approved in 1996. That permit had an expiration date of May 2001, but was administratively extended because the permittee had not begun construction, and the discharges from the CT site were limited to storm water.

Following Duke Energy's decision to start construction on the Phase I project in 2001, Duke submitted an application for both the certified Phase I project site and the proposed second phase expansion of December of 2001. A draft permit with the supporting facts sheet was developed by Council staff in consultation with the Department of Ecology Industrial Program (which normally issues NPDES permits for the state), EPA, and Duke Energy. That draft permit and fact sheet addressed the already approved Phase I project and the proposed Phase II expansion and was issued on July 29, 2002, with a 30-day comment period.

As required by federal and state regulations a public hearing was held on September 4, 2002, in Montesano. Approximately 40 people attended the hearing and 23 oral comments were received that evening. In addition, a total of 19 written comments were received by the close of comment period. A number of commenters raised questions regarding how Duke Energy's decision to postpone processing on the Phase II amendment, which was announced during the comment period, would impact the wastewater permitting process.

As noted in response to comments because the discharge limitations for both Phase I and Phase II projects are the same, the only condition affected by the withdrawal of the Phase II application and required revisions to the Draft NPDES permit was the total flow discharged to the Chehalis River. Based on the comments received, other changes to the Draft NPDES permit included minor clarifications concerning the discharge temperature based on the agreement between Duke Energy and Washington Department of Fish and Wildlife and timing issues for required studies to take into account the current slow down in construction of Phase I.

It is the staff's position that the proposed final permit will ensure that the water discharge from the Satsop CT Phase I project will meet state and federal water quality standards for the discharge of wastewater as required in Chapters 463-38, 173-200 & 173-201 of the Washington Administrative Code that pertains to discharges to surface and ground water of the state.

**CHAIR LUCE:** Thank you. In your opinion, Michelle or Allen, if you care to answer this question, is it absolutely critical that we act today?

**MR. FIKSDAL:** No.

**CHAIR LUCE:** Thank you. Council Members, we've received a letter, which I think you all received copies of earlier this morning from the Applicant's legal counsel, requesting that this

matter be deferred. My preference, but I'm open, would be to give the Applicant's counsel a chance to come forward to state what her position is, and then we'll open the matter to discussion among the Council and questioning of Council staff, if that make sense. We can choose another way to proceed as well. Is that a reasonable way to proceed?

**MR. IFIE:** I have a follow-up question for Allen.

**CHAIR LUCE:** Yes, Tony.

**MR. IFIE:** An earlier question was whether or not it is critical to act today. In your opinion what would be a reasonable time to make a decision? At one time I was hearing that we didn't need to make a decision last month, and then this month I thought we are going to make a decision. Is it possible we are going to make it today? So my thinking is I was trying to get some clarification what would be a reasonable time. Every time it's always urgent, but then somehow it's not urgent any more, so I'm trying to figure out are you guys crying wolf or is this for real?

**MR. FIKSDAL:** I think the staff's position is we would like to see this permit issued as soon as it is practical. I think the conditions particularly for the C-1 pond is important to get in place. The actual operating conditions aren't that important because the plant isn't operating yet. As Council Member Carelli has noted, there are provisions already in existence for regulating the C-1 pond, so the criticality isn't super high. It isn't absolutely critical to pass, but I think it's important to pass or issue this permit, but it's not critical. Does that answer your question?

**MR. IFIE:** Yes, thank you.

**CHAIR LUCE:** Let me ask staff, would the discussion of this issue be benefited by fixing a time certain, a date certain by which the Council will make a decision?

**MR. FIKSDAL:** Yes, a time certain would be nice. I think we have been working on this issue a long time and I would like to see it resolved. We all would like to see it resolved. If you set a date that the Council thinks that by a certain date we should be able to get to a solution or do it that would be great. I don't know what that is though.

**CHAIR LUCE:** Ms. McGaffey, do you care to offer any comments with respect to the letter that you provided to Council today?

**MS. McGAFFEY:** Yes. Earlier today we forwarded to the Council a letter on behalf of Duke asking the Council to defer action on the NPDES permit today. Our concern focuses on the relation between that permit and the water authorization in the site certification agreement. As the Council is probably aware, the preliminary final NPDES permit contains a 16-degree temperature limitation that was based upon an agreement that Duke entered into with the Department of Fish and Wildlife. That agreement that Duke entered into was based on a design that Duke developed for the facility that would allow the facility to be able to attain that 16-degree limit, and that 16-degree limit from the Department of Fish and Wildlife's perspective, I believe represents a significant improvement over the 18-degree limit that was in the previous NPDES permit, and that corresponds to the state and water quality standards.

Based on design work Duke had done they were willing to agree to a 16-degree limit in that permit, a more stringent limit than water quality standards would otherwise require. Recently however, it has come to our attention that at least some members of the Council have some concerns about whether that design is consistent with the water authorization language in the site certification agreement. That issue is discussed at some length in my letter, and I will just summarize by saying we disagree with that interpretation. What we are asking for today, however, is not that Council necessarily decide that issue but rather that the Council defer action on the NPDES permit recognizing that those two issues are related to one another, and that it's

important to resolve those two issues together, so that the SCA is consistent with the permit and vice versa, and that we're all on I guess the same page with the similar understanding about how the facility is going to be built and how that relates to the permit and SCA requirements.

I guess the final thing I would say in response to some of the colloquy about the timing of the permit, Duke is certainly happy to try to move forward expeditiously to resolve these issues. It may be beneficial to have another subgroup get together as Duke has in the past to resolve some of these issues that come up in interpreting permits and the SCA. In the meantime Duke is going forward with some of the work called for in the NPDES permit with respect to the C-1 pond and storm water issues that I know the Council and staff has concerns about that stuff going forward. So we are certainly prepared to move quickly to try to resolve these issues, but we do think it is important that they be resolved together, so that the permit and the SCA read consistently and can be both complied with consistently. Thank you.

**CHAIR LUCE:** Thank you. Council Member questions?

**MR. CARELLI:** In the draft of the permit that is currently before the Council for consideration, the flow volume has been deleted and in its place a footnote added indicating that the Applicant, Duke, would work with Department of Fish and Wildlife and Department of Ecology to resolve questions about water consumption for the facility. And by removing the flow amount is there still a connection between the NPDES permit and quench water question?

**MS. McGAFFEY:** I think there is, and I have to confess that in my fairly quick review of that preliminary draft this morning before I came down here, I didn't see a footnote, but I did notice that the water flow diagram had been removed. I think the relationship now really focuses on a temperature limit. Duke agreed to that temperature limit based on the design assumptions that I guess are now being called into question. Had Duke understood that its design was not consistent with the SCA or a decision along that lines were made, Duke would not have been, I think, willing to agree to a 16-degree temperature limitation. So it's really that temperature limit that relates the two issues, and I think that's particularly important because the site certification agreement language that we are talking about arose out of negotiated stipulations between the Department of Ecology and the Department of Fish and Wildlife. And key to that negotiation was a balancing of interests between the agencies. On one hand Ecology wanted to reduce the amount of water withdrawn from the well. The Department of Fish and Wildlife wanted to lower the temperature of discharge, so a balance was made about how much water would be withdrawn to try and lower the temperature. We thought that we had agreement on a technological solution that would give the Department of Fish and Wildlife what they wanted, a 16-degree limit, which goes beyond the current SCA requirement and yet still satisfy the terms of the SCA and therefore Ecology's concerns about water consumption. Now it sounds like there's some question about that, and so I think it's important that all those issues get resolved at the same table at the same time, so that that balance of temperature versus water can be sorted out to everyone's satisfaction.

**CHAIR LUCE:** Other Council Members questions? Would the site certificate holder, be amenable to sitting down with the two parties who are principally involved in the stipulations, Ecology and WDFW, and within a defined time frame seek to resolve this issue among yourselves recognizing the Council is the final decision making body with respect to this issue?

**MS. McGAFFEY:** Sure. I think that's a good idea.

**CHAIR LUCE:** Do the Council Members think that that might be helpful?

**MS. JENENE:** May I make a comment?

**CHAIR LUCE:** Yes, please.

**MS. FENTON:** Chuck and I spent a great deal of time on the NPDES permit, and in your letter you indicated that we did meet with representatives of Duke and Energy Northwest, and I believe that according to your letter back in October at that time water consumption issues were discussed, and the issue that you are telling us about today was one of those issues, and I'm a little bit concerned that the day we're to take action on the NPDES permit you're asking us to delay. There would have been at least a month to work with Ecology and Fish and Wildlife, and I am extremely hopeful that this issue will be resolved expeditiously, and I would like to set a time certain for all the people involved to resolve it.

**CHAIR LUCE:** Allen, do you have any recommendation with respect to what you might think is a reasonable time frame?

**MR. FIKSDAL:** I think it would be more dependent on all the different parties to get together and determine that. The Department of Fish and Wildlife and Department of Ecology and Duke Energy are the people that are going to have to get together, and we would be more than happy to help facilitate that. We do have the Thanksgiving holiday coming up. The next Council meeting is December 9. If that's the time that you want to recommend, that seems reasonable to me.

**CHAIR LUCE:** It seems because what you just said regarding the Thanksgiving holiday it may not be quite enough time. We don't have WDFW and Ecology in the room here. My inclination would be in thirty days, and we'll act by a special meeting if necessary to resolve this. So it recognizes you also have some holiday period in December as well, but it seems to me like a friend of mine in the Columbia River Intertribal used to say "a creator's last moment is for a reason," and we are getting into the creator's last moment here. So my suggestion would be we have 30 days in which to get this resolved or we're going to bring it back for Council action, and we will act on the recommendation of staff one way or the other. So, Tony, are you all right with that?

**MR. IFIE:** Yes.

**CHAIR LUCE:** Do we need to take a vote? Do we need formal action to defer this or not?

**MR. FALLIS:** No.

**CHAIR LUCE:** Well, then consider it postponed for 30 days. We're coming back to the Council for final decision with a strong encouragement toward WDFW and Ecology and the parties to the stipulation and see if we can get this issue resolved.

**MS. McGAFFEY:** Thank you.

**MR. FALLIS:** Mr. Chair, can I ask Ms. McGaffey a question?

**CHAIR LUCE:** Yes.

**MR. FALLIS:** It sounds as though the C-1 pond matters that Mr. Fiksdal referred to are really not the things that are in controversy. Would Duke be willing to work with EFSEC staff to get those things going as if action on the permit were taken today?

**MS. McGAFFEY:** I think so, yes. I will ask the folks at Duke to be in contact with EFSEC staff to move forward with that C-1 pond.

**MR. FALLIS:** That might eliminate some of the concern about the timing.

**CHAIR LUCE:** Okay. And I apologize. I have not gone back and read the transcripts and reviewed the proceedings in 1996, so I think the parties who were there at the table negotiating these stipulations might be in the best position to do that. Thank you very much, Ms. McGaffey.

**MS. McGAFFEY:** Thanks.

<b>Phase I – Air (NOC/PSD) Permit Amendment</b>	<b>Irina Makarow, EFSEC</b>
---	-----------------------------

**CHAIR LUCE:** We have something else with respect to Satsop. We have the PSD permit. Do I understand that that is not ready for action yet?

**MS. MAKAROW:** Yes. We will not bring it as an action item today. Staff is still working with Department of Ecology to finalize the responsiveness summary for Council Members to see prior to their action.

<b>Phase I Status</b>	<b>Laura Schinnell, Energy Northwest and Andrew McNeil, Duke Energy Grays Harbor</b>
-----------------------	--

**CHAIR LUCE:** Thank you. We do have Laura Schinnell here today to give us a report on the status of Phase I.

**MS. SCHINNELL:** Actually I brought with me Andy McNeil, our project director, to talk a little bit about our activities and a little bit about what our schedule looks like.

**MR. McNEIL:** Good afternoon. The status as of the end of the month, we had about 230 people working on site, and I just want to give a brief summary of what they are doing. We've got roughly 26 people working on erecting the gas turbine enclosure and the cab forward enclosures. We've got 90 people working on the HRSGs. We continue to weld at the roof panels, and we are installing seismic structural steel. We've got 16 people vaulting up the steam generator access structures. We've got roughly 12 electricians pulling cable and energizing feeders. We've got roughly 30 ironworkers, carpenters, laborers installing structural steel, building platforms, and grounding columns and equipment, and roughly ten pipefitters installing pipe supports and piping, and then the rest of the 30 or so people are in direct support. Any questions?

**CHAIR LUCE:** It sounds like the 12 days of Christmas. Ten carpenters are working, etc.

**MR. McNEIL:** Well, I wanted to give you real numbers.

**CHAIR LUCE:** I appreciate that. How is the site withstanding the recent rainfall we've had in terms of turbidity?

**MS. SCHINNELL:** Today was the first day that I actually saw some water in the C-1 pond, and by that it's a puddle maybe four feet by four feet which would be a good mud puddle to go play in; although, I resisted that inclination. Basically the ground is absorbing the runoff. What is coming from the site right at the moment is a little bit more turbid than what I would like to see, and I've been working with Duke Fluor Daniel, our construction manager, to take care of the problem. There's one low area of the site where all the runoff is going to and trucks are traveling back and forth through that low area, so they're going to come up with a plan to fix that, and I think that should resolve most of it.

In terms of the proposed limits in the NPDES permit what I'll do later this week is sample to see. The only one I am really concerned about would be the total dissolved solids, and so I'll do a sample and run some tests on that to see how we're doing in that regard. But the C-1 pond, we did clean it out. We probably made it bigger than it was back when we first constructed it, so we didn't just take care of the silt that we had put in. We took care of the silt from when it was constructed, so it went back to native soil, and in order to gain any access to that pond we actually had to construct a shelf and a little bit of an access road, so as we backed out we made the pond bigger than it had been.

**CHAIR LUCE:** How is the traffic situation at the Satsop site?

**MS. SCHINNELL:** The traffic counters essentially were pulled. Part of what happened just about the time that construction was deferred was the Lambert Road construction picked up as I

think some of you went through that when you visited the site. That's completed now, so people are now going to the east as well as to the west; although, I would have to say that even some of us that would go to the east because of the restrictions go to the west because there's no traffic problem.

**CHAIR LUCE:** Thank you. Council Member questions? Allen.

**MR. FIKSDAL:** Laura, can you give us the results of the Total Dissolved Solids analysis?

**MS. SCHINNELL:** Yes, I will do that.

**CHAIR LUCE:** Thank you very much.

## **ITEM 6: CHEHALIS GENERATION FACILITY**

<b>Water Use Mitigation</b>	<b>Mike Mills, EFSEC</b>
-----------------------------	--------------------------

**CHAIR LUCE:** Item 6 concerns the Chehalis Generation Facility water use mitigation. Mike, do you have a presentation for us regarding those issues?

**MR. MILLS:** Yes, I do. In your packets there's a package a blue cover Draft Resolution 301, and I've asked Liz Thomas to brief the Council again on the water use mitigation proposal that Chehalis Power is bringing forward to the Council for action today.

**MS. THOMAS:** Thank you, Mike. Just to refresh your memories, the Chehalis Power Site Certification Agreement calls for Chehalis Power to acquire 102-acre feet of water prior to commencement of commercial operation, and we have until December 31 of this year to acquire wet water, to make submittals to you of wet water acquisition. If we don't acquire wet water by then, then we flip into a mode where we pay the Department of Ecology on the basis of \$4,000 an acre foot. We have had some success we feel in identifying wet water. There is a report that I believe the Council Members have from Chehalis Power's consultant detailing the Reisinger water right which has a nominal, I don't recall the nominal water involved there, substantially in excess of 53 acre feet. But when you look at the net amount used and subtract out the amount that might be available for exempt wells the resulting figure is about 52 acre feet.

You recall that I was here I believe in September with a stipulation that been reached between Chehalis Power and Ecology providing first the procedure mechanisms. Probably most significant at this juncture is the requirement that Chehalis Power submit any water right materials that we think we are going to be submitting to you, we provide them to Ecology three weeks ahead of time. We did that and Ecology has submitted a letter concurring in the quantification of the Reisinger water right in the amount of a little over 52 acre feet. We then submitted a package to you all, and at this point we would request your approval of the right per the terms of the resolution basically confirming that it counts towards satisfying the 102-acre foot requirement. I would be happy to try to answer any questions that you may have.

**CHAIR LUCE:** Council Member questions? Staff?

**MR. MILLS:** Staff would recommend that the Council approve Resolution 301 regarding Chehalis water use mitigation, and I'll just point out that the resolution states, "having considered Chehalis Power's proposal and all supporting documentation, comments of Ecology and others, and a recommendation of EFSEC staff, the Council hereby takes the following action:

- (1) Finds that Water Right Certificate No. 4088A meets the criteria for dedication to the Chehalis River consistent with Article 6(a)(4) of Chehalis Site Certification Agreement.
- (2) Approve Chehalis Power's proposal to acquire a dedicated Water Right Certificate No. 4088A to the Chehalis River

(3) Determines that Chehalis Power receives an acre foot credit in the amount of the 52.46 acre feet for dedication of said water right.”

**CHAIR LUCE:** Thank you. Before the Council takes action on this matter is there any members of the public that wish to comment on it? Thank you. Yes, sir. Please come forward. State your name for the record.

**MR. MUDGE:** My name is John Mudge. I am president of the Critical Issues Council which was the sole public intervenor in the Chehalis Power matter, and I would just like to say I fully support this action and I'm really glad to see it take place. I think it's amazing that Chehalis Power found water rights to buy separately, and they're to be commended for a lot of fine detective work. I also think this is probably a good opportunity to thank the Council for the entire process by which this has gone forward for the last five or six years. It proves EFSEC in fact works, and we're pleased with the outcome so far. We're not really pleased with the existence of the plant, but given that, we're very pleased with the way the process has worked and think we've had a fair chance to say our piece, and it's been acted on. And we're particularly pleased with this water agreement.

**CHAIR LUCE:** Thank you, sir. Anyone else from the public wish to comment on this matter? Do I have a motion from the Council?

**MR. IFIE:** So moved.

**MS. FENTON:** Second.

**CHAIR LUCE:** Any discussion? Call for the question?

**MR. CARELLI:** Question.

**CHAIR LUCE:** All in favor say Aye.

**COUNCIL MEMBERS:** Aye.

**CHAIR LUCE:** So approved.

**MR. MILLS:** Thank you.

**CHAIR LUCE:** Thank you.

<b>Construction Progress Report</b>	<b>Mike Mills, EFSEC</b>
-------------------------------------	--------------------------

**MR. MILLS:** The next item on Chehalis was a progress report. Tom Schneider was unable to make the trip here today, and I spoke with him briefly before the meeting today. The Chehalis project is continuing ahead of schedule. The work over the past month has focused on the combustion turbine and steam turbine building, setting equipment, and getting those buildings enclosed. They're also continuing at about 85 to 90 percent on the air-cooling units. They're continuing to work on the heat recovery steam generator stacks, and I believe have set the aluminum storage tank. Overall the project again continues to be ahead of schedule, and the company is certainly optimistic that they will be able to beat the November 1 target for commercial operation to date.

**CHAIR LUCE:** Thank you. I think that concludes the matters associated with the Chehalis Generation Facility.

## ITEM 7: ENERGY NORTHWEST COLUMBIA GENERATING STATION & WNP-1/4

<b>Columbia Operations</b>	<b>Mike Mills, EFSEC</b>
----------------------------	--------------------------

**CHAIR LUCE:** The next item on the agenda is Energy Northwest Columbia Generating Station WNP 1 and 4. Do we have a report from Energy Northwest or, Mike, would you be making that?

**MR. MILLS:** I will make that report. Thank you. John Arbuckle did not make the trip over today because one of the things he was going to do was take a letter back and that letter won't be prepared today. I will make the report.

Plant status: Columbia Generation Station has been on line for 261 consecutive days. You recall that they had had loaded a 24-month supply of fuel, and they're scheduled now to refuel in the April-May time frame of next year, and the power level has been at 100 percent. John pointed out the security update. The Council has been following this over the last months. They remain at a heightened level of security, and he notes that Phase II is currently in progress with planned completion in the Spring of 2003. Phase II activities consist of completing the perimeter barrier fill work, construction of the vehicle checkpoint, guardhouse, and relocation of visitor center and associated parking facilities.

I believe the visitor center John has spoken about that I think they were looking at building a new facility. He informed me last week that they may be thinking now about moving the trailer that was the visitor center to a site near the vehicle checkpoint locations. So I believe the company will come forward in the next several months or next two months with a proposal on a visitor center.

He also highlights the dry cask storage work. He notes that this week they're loading a fourth spent fuel storage cask. Loading of the fifth cask will be the final one planned for the week of December 2, and he points out that each cask contains 68 spent fuel assemblies. John and Lynn Albin from the Department of Health do plan to be at your meeting to provide additional details on the dry cask effort. From what we've heard they've received very good reports from the Nuclear Regulatory Commission on the way that they have conducted this work, and I have asked John and Lynn, who is following the work for the Council from the Department of Health, to report more on this at the next meeting. That concludes my report.

<b>WNP-1/4 Site Restoration – Principles Agreement</b>	<b>Jim Luce, EFSEC Chair</b>
--	------------------------------

**CHAIR LUCE:** The other item is the WNP-1/4 Site Restoration Principles Agreement which has now been memorialized in the form of a four-party letter agreement. Council and staff had the opportunity to travel to the Tri-Cities and visit the Hanford site on November 1. What I would like today is the approval of the Council, as soon as the paperwork is complete sign on behalf of EFSEC this four-party letter agreement which is Part 1 of a two-part acceptance of the site restoration plan Level 3D. If I understand from legal counsel correctly, we would first sign the letter agreement and then subsequent to that we would need to approve and sign a Level 3D site restoration. So my request today is, at the appropriate time, I will notify the Council prior to signing, but at the appropriate time I would like the authority to sign this letter agreement on behalf of the Council and the State. I need a resolution or motion or something. Yes, sir.

**MR. CARELLI:** Question. Are the other parties fully in agreement with the draft site agreement? Are there any outstanding issues?

**CHAIR LUCE:** Cindy Custer is here from Bonneville, but my understanding is based on a conference call we had on Friday between Energy Northwest, Bonneville -- I am not sure

Department of Energy (DOE) was on the phone, but DOE's position was represented, and EFSEC and that there are no remaining issues, and that the parties do concur with this letter as written. If there were any substantive changes, I would come back.

**MS. FENTON:** Mr. Chair, I move that we authorize you to sign the letter at the appropriate time, and I want to congratulate you on pulling it off. I for one was a naysayer and you did good. Thanks.

**CHAIR LUCE:** I think we did good and Bonneville did good and Energy Northwest did good and so did DOE. This agreement is going to be a lot of benefit to both project sites themselves and the off-site environmental mitigation that will take place as a result of this, so thank you very much.

**MR. CARELLI:** I'll second the motion.

**CHAIR LUCE:** Call for the question?

**MR. CARELLI:** Question.

**CHAIR LUCE:** In all favor?

**COUNCIL MEMBERS:** Aye.

**CHAIR LUCE:** Thank you. I appreciate that. I hope, sincerely hope at the end of the month we will complete both steps, both signing of the letter and the approval of Level 3D as soon as Level 3D site restoration plan is available in its final form, and Mike informs me that that's close.

**MR. MILLS:** Yes.

**CHAIR LUCE:** We'll ship that out to all of you. I want you to have a chance to review it. He's been reviewing it as it goes along. So the plan would be for Mike to send that out or Mike and Allen to send that out with the staff recommendation.

**MR. FIKSDAL:** For timing we suspect maybe not next week but the week of Thanksgiving we might have a special meeting for this, so we would look at your availability. Probably we're thinking of Tuesday.

**MR. MILLS:** Tuesday the 26th.

**MR. FIKSDAL:** We don't know exactly when we are going to get the plan and how long it's going to take.

**CHAIR LUCE:** All right. Thank you. EFSEC rulemaking.

**MS. FENTON:** Before you go to the next agenda item, perhaps the other Council Members might like to have a quick status report on the off-site mitigation.

**CHAIR LUCE:** All right.

**MS. FENTON:** Well, in order to accommodate the off-site mitigation that is called for in the four-party agreement, my agency has been negotiating with a third-party to broker a potential acquisition, and that we are looking forward to the receipt of the 3.5 million to be able to pull off the acquisition in the time line allowed. And I've told my agency we need to have details to the Council by Thanksgiving, so hopefully that will work with the time line there.

**CHAIR LUCE:** Thank you. Anything else?

## **ITEM 8: RULEMAKING - RULES DEVELOPMENT PROCESS**

<b>Rules Development Process</b>	<b>Charles Carelli, EFSEC Council</b>
----------------------------------	---------------------------------------

**CHAIR LUCE:** Mr. Carelli, the report on rule making. We have it listed as an action item. The adoption of the process for proceeding to adopt the rules, draft rules, the final rules that came out of the Krogh report, and Chuck Carelli and Dick Fryhling have done work, substantial

work and very positive helpful work on putting together a process by which the Council can proceed, so, gentlemen, you want to make a report.

**MR. FRYHLING:** Chuck is really the person who is working on this one. I had limited input, so let Chuck do it.

**MR. CARELLI:** I've been away working on this last minute this morning, so Mr. Fryhling knows nothing about what I'm going to say.

**MR. FRYHLING:** You did really good.

**MR. CARELLI:** So you give him proper credit. Dick is off the hook I'm afraid. At any rate in your packet you have a pink sheet that was discussed dated Draft 1 October 25, 2002, an EFSEC Rule Adoption Plan Suggested Steps, and following the executive committee meeting on November 5, I went back to my notes today and produced a new draft of the EFSEC Environmental Standards Rule Adoption Plan. It's white, and it was added to your stack in front of you at the last minute. This is the recommendation for EFSEC Council, and it would be the action and recommendation that the Council adopt this process.

We spent a good deal of time, and in fact all the Council Members were at the November 4 Executive Committee meeting when we discussed this. The comments and suggestions that were made I think pertaining to cleaning up existing rules and making sure that any action that we take with regards to environmental standards are not inconsistent with our existing EFSEC rules. I think we cleaned up the SEPA process to the extent that we're not going to be inconsistent with SEPA at any rate. So what I would do is ask the Council Members to take a look at the steps numbered 1 through 20 that are contained here. I think this pretty well captures our discussion, and I would move that we adopt this as a process for developing environmental standards for the construction of combustion turbine generators.

If you would like, I could go through the 20 steps in kind of just a few words describing what they are for the Council Members or members of the audience.

**CHAIR LUCE:** That might be helpful, and then maybe you could briefly summarize what we have before us, a Draft CR-101.

**MR. CARELLI:** I think I'll defer that to Mr. Fiksdal, since that was his gem.

**CHAIR LUCE:** All right.

**MR. CARELLI:** First of all, the Council will rely on the Krogh & Leonard Report to Chair Luce, and we will consider adoption of environmental standards for the topics that are contained in this report. We are going to authorize staff, Mr. Fiksdal, to update a CR-101 that precisely describes the nature of the environmental standards we would be considering. We will adopt a tentative schedule for considering these standards. We will utilize the EFSEC executive committee for Council Members to get together and talk about individual standards to look at alternatives and to decide how we're going to proceed, whether we would assign the work to EFSEC staff or if the Council would work in small one- or two-person work groups to refine proposed standards and bring them back to the executive committee for consideration.

Only after the executive committee has accepted the proposed standard would it be presented to EFSEC Council for discussion, and at that point EFSEC Council would have the standard presented, and we would take that opportunity for additional stakeholder and public comments on that particular standard. At that point we have a couple of options. We can decide to send it back to the executive committee for additional work, or we can ask staff to move ahead and begin scheduling public and stakeholder meetings to take formal comments on the proposed standard. We will allow for written, as well as oral comments, and would accept written comments up to 30 days following public meetings.

Following the public and stakeholder review process and the written comments being received, we go back to the Council and/or the executive committee depending on the nature of the comments that we receive and put together a final revised standard for Council consideration. If the Council again decides to adopt that particular standard, we would ask staff to put together appropriate code reviser paperwork to both have the standard typed in the appropriate form, so that it becomes a rule and file paperwork with the Code Revisers Office, so that we can move ahead with public hearings and the adoption process. To the extent that the Council can utilize expedited adoption rules where there may not be a great deal of comment or significance to the type of rules that we're adopting, they may already exist in another form, we would like to use expedited processing to simplify the process. And once we have a rule before the Council for consideration, we will make the SEPA determination and decide if it is a product that requires that an environmental statement be prepared or if it's possible to do a negative declaration or possibly a mitigated declaration before we adopt a rule.

**CHAIR LUCE:** Counsel Member comments? Jenene.

**MS. FENTON:** Great job.

**MR. FRYHLING:** Yes, great job.

**MS. FENTON:** I just have a suggestion, and it's to number one. One of the assignments that Tony and I got after the last executive committee meeting was to take a look at the Charlie Earl report, the legislation that was passed, the Krogh Report, and Deb Ross's comments to see if there were any outlying issues that may impact our rule making as it pertains to standards. Tony and I will be presenting that information back to the executive committee next week. The only thing I am concerned about in number one is that it limits it to the Krogh Report. Even though we've all agreed that that is the first and the highest priority because it pretty well structures the discussion that we have in rule making. There may be some other issues outlying in those other documents that are worthy of looking at, and I just don't want us to limit ourselves in this action by just looking at the Krogh Report. I think that's pretty much what we talked about, so I don't think I was inconsistent.

**CHAIR LUCE:** I think that's implicit. It would be the Krogh & Leonard Report and otherwise.

**MR. CARELLI:** In part that's covered under Item 6 on the second page where it says the work groups will review existing standards with an eye towards correcting inconsistencies between proposed standards/rules and addressing necessary housekeeping type changes in the existing EFSEC rules. But it doesn't mention those two, and that's a good point.

**MS. FENTON:** The only reason I think we should at least mention the Charlie Earl report is because that was the Governor's report that kicked off the whole process, and it might behoove us to mention his involvement in our going towards rule making.

**MR. FIKSDAL:** So if we added as presented in the Krogh & Leonard Report, the Charlie Earl Report, and Chair Ross's paper, something like that.

**MS. FENTON:** Yes.

**MR. FIKSDAL:** Add that to number one.

**CHAIR LUCE:** Tony, do you have any comments?

**MR. IFIE:** Yes, I have a quick comment. Again, an excellent job, Chuck, on the work you did. Do we want to limit ourselves to just environmental standards or are we opening it up. The last time when there was mention of the Krogh Report, it was specifically called environmental, so if we could cross that out and leave it as standards I think that will help.

**CHAIR LUCE:** I had the same thought because I am not sure that seismicity is an environmental standard but standards across the board. Hopefully all of these standards will

improve the environment, but I would concur with what you're saying. Strike the word environmental, insert in the proper sequence, the Charlie Earl Report, Deb Ross, and etc. We will leave it sufficiently broad that we can capture all of those work products that you're working on and otherwise.

We also have this updated CR-101. It seemed to me that if we're going to adopt this process, we also ought to adopt at the same time as part of it the CR-101 and authorize Allen to process this through the appropriate state governmental entities for publication. Has everybody had a chance to take a look at that?

**MR. FIKSDAL:** This is a little bit different than the one you got at the executive committee, I changed one word, and that is in under "the Subject of Possible Rule Making," the last sentence. It's changed now to, "This CR-101 supplements the CR-101 issued on June 19, 2001." I think that would cover all the bases, not only the 12 subject areas this CR-101 addresses, but the CR-101 that is existing and already covers everything else. And I haven't checked with Rusty yet, but I'll check with him if he's agreeable to doing this or something similar to this. I would like authority to issue something that captures your process or instigation of the process in going forward with rule making.

**CHAIR LUCE:** Do we have a motion to approve the process that Council Member Carelli has so thoughtfully put together and the issuance of the CR-101?

**MR. CARELLI:** I will make the motion we approve this process with the two changes that have been suggested in striking environmental and adding the Charlie Earl Report and the Deb Ross paper to number one and authorizing EFSEC staff manager to issue a supplemental CR-101.

**MS. FENTON:** Second.

**CHAIR LUCE:** Comments, Council Members? Questions from the public?

**MR. ANDERSON:** Just real quickly. Mark Anderson with the Office of Trade and Economic Development. The CR-101 we have back here is for the air rules. My presumption is you're talking about something different.

At the executive committee meeting you just held I think it was Mr. Peebles who suggested that the standards not necessarily be limited to combustion turbines. I heard you mention that in your first sentence, so if you're choosing in the new CR-101 that you're going to be producing, and I don't know if it's before you or not, to limit it to combustion turbines, then you would have to come back and do some kind of other formal process if you wanted to apply it to other thermal generating units or other energy units that are not generating. So I thought at the executive committee meeting there was a sense of agreement that it would be broader than just CT's. I just raise that because in your introduction sentence you were talking about CT's.

**CHAIR LUCE:** CT's is what I think we can do, biting off a little bit at a time, and then many of these rules will be pretty capable of being readily adapted to other technologies.

**MS. FENTON:** All recommendations that I remember receiving during the stakeholder process, it was very clear from the stakeholders that it was limited to combustion turbines, and I would think we would have to go back to the drawing board on recommendations if we want to expand it.

**CHAIR LUCE:** Maybe not.

**MS. FENTON:** Maybe not.

**CHAIR LUCE:** But I think it's still prudent to let's keep it confined at this point in time.

**MR. IFIE:** I feel there are some rules that go beyond just combustion turbine facilities, so some of the standards are just restricted to combustion turbines whereas other ones could be like the collaboration.

**CHAIR LUCE:** Mediation.

**MR. IFIE:** The mediation one, for instance, and seismicity. Those go beyond just combustion turbines, so maybe is there a way to make it flexible where the standard might be applied beyond the combustion turbine facilities, then it can be used?

**CHAIR LUCE:** One possibility would be to designate those specific generic rules like mediation, facilitation.

**MS. FENTON:** Wouldn't those be already covered in the CR-101?

**CHAIR LUCE:** I think they would if they could be.

**MR. FIKSDAL:** I think we have to be very careful. The whole stakeholder process was centered around combustion turbine projects. All the information and discussion was centered on the combustion turbine process. Some of these could be used in other processes, but those stakeholders weren't at the table. We don't know if it would have an impact or not on some of those different facilities. One would think they wouldn't, but I just don't want to leap into saying, "Oh, yes, they're generic. Adopt them forever."

**CHAIR LUCE:** My instinct, memory from the stakeholder process was that they were a rather tightly drawn list with some discussion from time to time about should it be more broadly adopted. We talked a little bit about coal plants, and coal plants will have some different standards. And talked a little bit about nuclear plants and they certainly would have different standards and whether we would have jurisdiction. Well, we would under the SCA. Wind. Wind is something that we may hear about later today, but also the different societies and organizations suggested from time to time that EFSEC should look at wind standards, but that's a separate undertaking from my perspective. So I think I would like to confine this to combustion turbine projects at this point in time. It's the technology for, who knows, the next five to six years in any case.

**MR. CARELLI:** Question.

**CHAIR LUCE:** Yes, sir.

**MR. CARELLI:** If I could ask Rusty a question. By adopting this process and the fact that process talks about siting of combustion turbine electrical generator projects are we then limited to only dealing with looking at standards that deal with combustion turbine electricity generation?

**MR. FALLIS:** Well, what you're saying is that this is the process that we want to use to develop standards for CT projects, so if you decide to look at standards or develop standards for some other kind of project technically you are not binding yourselves to use this process. The purpose of this as I understand it is to reach agreement on the Council as to how you're going to go about developing CT standards, and it would be easy enough to adapt this to other kinds of projects, and the same goes for a CR-101, if you decide to branch out and address other subjects. I agree with Allen. I think the purpose of a 101 is really to inform people of what is eminent in terms of Council action, and I think it could be confusing to go beyond CT projects. To some extent you defeat the purpose of the 101 if you really don't have those other things on your plate right now. It's a simple enough matter to issue a new one if you get to the point where you're really ready to take on other standards.

**MR. IFIE:** I have a comment. I think the issue is not whether or not we should develop standards for specific or other facilities apart from combustion gas turbines. The issue is it's not

as though we are looking at them necessarily, but if so, applicable to other kinds of facilities apart from just combustion turbines. So, for instance, mediation by itself it goes beyond just one kind of facility; something that would be used in any plant, if it's wind power or whatever power, we can use it. So I'm trying to understand what Rusty just said. If we developed a standard that could be used for other plants are we saying that because we didn't go spell out a name, we didn't set out to do an all inclusive standard, does that mean we can't apply this standard that comes out of this process for other facilities?

**MR. FALLIS:** Well, I think one could argue that would be outside of the scope of CR-101, but as a practical matter your mediation rules is probably the most conceptual of all of them. In my view you could convince somebody of your interest that they follow it if you hadn't formally adopted it. So to answer your question, I think if your CR-101 says these rules relate to combustion turbine power plant standards, yes, technically that's what they apply to and not to something else.

**CHAIR LUCE:** We could have to come back to the Council, yes or no, I'm not sure, and amend a process or is the process a process that's binding on the Council if we're really acting pursuant to the CR-101?

**MR. FIKSDAL:** May I?

**CHAIR LUCE:** Yes, thank you.

**MR. FIKSDAL:** I think you should go forward with the process for combustion turbine projects. I think in the time that you hold your hold public meetings and get public comments on the different rules that people say they should be expanded, at that time you could decide, well, yes, indeed they could be expanded and issue a new CR-101 for whatever rule that is and go forward and have it more inclusive at that time. This isn't a narrow track that you can't get out of it. I think you want to start down this road. But if you find something that is applicable to other areas, I think you can take a little side-track fairly easily and include it into other areas. I think you should just start down this road, and if you need to have a siting, you can do it later. There's nothing to stop you.

**CHAIR LUCE:** I think that helps me a lot. Jenene?

**MS. FENTON:** One of the reasons that I thought Tony and I were given our assignment was to initially focus on the Krogh Report and limit at least the first rule making but recognize that there's a lot of other rules that need to be adjusted and basically to put together a five-year work plan dealing with rules. And I think, Tony, that's where the things that you're talking about would fall in. As we get past the Krogh Report recommendations, we're probably going to need another CR-101. I think that the documents that we are putting together for next week's meeting will help identify what that track needs to be.

**CHAIR LUCE:** I think you're correct. We have a motion. We have a second. Any comment from the Council before we move on this matter? All in favor say Aye.

**COUNCIL MEMBERS:** Aye.

**CHAIR LUCE:** All right. Hopefully at the next executive committee meeting we could have a recommendation from staff and from Mr. Carelli, who has graciously accepted the opportunity to continue with this work and Dick as to where do we start. Let's pick out maybe the low hanging fruit first, the ones to get us going. I don't know if that's mediation or seismicity. If we could come up with as well as a report from Jenene and Tony some sort of a recommendation on how do we team-up.

**MS. FENTON:** I like that concept, but I really think that we need to take a look at what you want the product to look like, and that you can't just pick off one without thinking about what the

final product is going to look like, just so that there's consistency all the way through. I think we need to have that up front discussion and then work through that.

**CHAIR LUCE:** I also agree with that. We talked about a separate chapter within the WACs for these rules. That has some appeal to me, but right, we want to lay the foundation before we build the house.

**MR. FIKSDAL:** Mr. Chair, after I discuss the exact wording changes, I think I have them for Mr. Carelli's proposal, I think it would be beneficial to post this on our website, so that everybody has an idea of what our process is and can get access to it easily. I wanted to ask Council if we can do that.

**CHAIR LUCE:** I think that's a great idea. You might also want to make notice of this process known a little more widely to the press distribution list that we have. Perhaps staff could prepare a press release announcing the kick off of the EFSEC rule making process.

**MR. FIKSDAL:** Okay.

**MR. CARELLI:** Mr. Fiksdal, do you want me to do the edits and give you back an electronic copy tomorrow?

**MR. FIKSDAL:** Please.

**CHAIR LUCE:** Thank you. We will take a five-minute break. (Recess taken.)

<b>Air Rules</b>	<b>Irina Makarow, EFSEC</b>
------------------	-----------------------------

**CHAIR LUCE:** Well, let's go back and deal with the air rules.

**MS. MAKAROW:** In your packets, and we've had some copies put out for the public, you will find the CR-101 that was filed with the Code Revisers Office regarding our upcoming rule revisions to our air rules. The intent of these revisions is to update our basic adoption of the Ecology rules and also clarify our appeals language. In today's handout you received an updated schedule, as well as a redlined version of our changes, which was transmitted to EPA Region 10. EPA Region 10 is going to be looking at that and telling us whether they think it meets the requirements for Washington State SIP approval, so hopefully we will get back what we sent in. Once we get EPA's comments, we will be ready to go with a CR-102 with the actual changes. Are there any questions?

**CHAIR LUCE:** Thank you.

## **ITEM 9: Sumas 2 Generation Facility**

<b>Status Report</b>	<b>Irina Makarow, EFSEC</b>
----------------------	-----------------------------

**CHAIR LUCE:** Sumas 2 is the next item on the agenda, and, Irina, you're on board here.

**MS. MAKAROW:** I will report on two items. The first is that the certificate holder is submitting monthly reports regarding their PM10 and NOx emissions offsets, and we'll be getting those to you as soon as we receive them. And last week at the executive committee, of course, Eric Hanson came in and described a little bit more about what kind of offset projects they're looking at, and will have him come periodically to give you those updates. The second item to report on is the appeals of the Council's decision. First of all. I will let Rusty give us any updates that he may have about Whatcom County's appeal in Thurston County Superior Court. And regarding the Canadian appeals of the PSD permit, both Environment Canada and the Province of British Columbia appealed the PSD permit. and Those two appeals are being

consolidated into a single appeal before the Environmental Appeals Board in Washington, D.C. On November 4, the Province submitted a more detailed brief.

**CHAIR LUCE:** Great. Rusty.

**MR. FALLIS:** I have nothing new to report on the Superior Court case.

**CHAIR LUCE:** If you could, if there is a website in which the Environmental Appeals Board brief is filed, I would be curious to read it. Is that reasonable? Advise me, Counsel. Should I do this or not?

**MR. FALLIS:** There's not a problem with you reading a brief.

**MS. MAKAROW:** We will get you a copy of that brief.

**CHAIR LUCE:** Thank you.

#### **ITEM 10: WALLULA POWER PROJECT**

<b>Status Report</b>	<b>Irina Makarow, EFSEC</b>
----------------------	-----------------------------

**CHAIR LUCE:** The Wallula Power Project is the next item on the agenda.

**MS. MAKAROW:** The only item I have to report is that we got our air permit writers recommendation regarding the content of the final Air permits in last week. That was transmitted to the Council Members who participated in the review of the Wallula Power Project. I am waiting for their comments as to what that recommendation states by this Wednesday, and once we get all of the votes in, we can determine whether or not it will be appropriate to move that up to the Governor's office.

**CHAIR LUCE:** Assuming hypothetically and only hypothetically that on Wednesday it was approved, what's the timing for going forward to the Governor's office.

**MS. MAKAROW:** It would probably be either Friday or early next week.

**CHAIR LUCE:** Okay. And the Governor has 30 days.

**MR. FIKSDAL:** Sixty days.

**CHAIR LUCE:** Sixty days within which to review. Okay. Thank you.

#### **ITEM 11: CHERRY POINT PROJECT**

<b>Status Report</b>	<b>Michelle Elling, EFSEC</b>
----------------------	-------------------------------

**CHAIR LUCE:** Michelle, Cherry Point.

**MS. ELLING:** As we've been reporting to the Council on BP Cherry Point the Applicant has been working closely with the Corps of Engineers to address the wetlands issues. They are still working on those issues, and once they have resolved those with the Corps, we should be able to present the Council with a good schedule for how to proceed forward with the development of the Draft EIS. And the other issue that was outlined besides wetlands was the cultural resources, and that report has been finalized.

**CHAIR LUCE:** Can we anticipate that the wetlands report will be finalized in the reasonable foreseeable future?

**MS. ELLING:** They're working on it as expeditiously as possible but no dates are available.

## ITEM 12: GREEN POWER PROGRAMS

Wind Power Presentation	Rachel Shimshak, Renewable Northwest Project
-------------------------	--

**CHAIR LUCE:** I appreciate the opportunity to introduce Rachel Shimshak, director of the Renewable Northwest Project. She has agreed to come and talk to us a little bit about an exciting and interesting and potentially very helpful addition to the overall energy package in the Northwest and otherwise wind power. So, Rachel, thank you for coming and the floor is yours.

**MS. SHIMSHAK:** Thank you. I appreciate the invitation and thank you again for taking me out of turn. I appreciate that also. I am Rachel Shimshak, I'm the director of the Renewable Northwest Project. We're a regional organization. We promote solar, wind, and geothermal in four states of the Northwest: Oregon, Washington, Idaho, and Montana. We are a little different from some advocacy organizations in that our membership includes both environmental and consumer groups and also energy companies. In your packet I only gave you three pieces of paper. I figured you have enough paper to look at. One of the pieces is our brochure. On the flip side of the brochure you will see all of our members listed, and you can see the groups in Washington and also the developers listed.

We have three strategic objectives as an organization. One is to see that good renewable projects get in the ground and have a chance to operate. Two is to promote policies that support renewable resources. And three is to help grow the green market. By that I mean specifically urging individual customers to sign up for green power wherever it is available. So I want to just briefly summarize some information in each of those categories for you. I want to talk a little bit about the evolution of wind siting issues in and around the Northwest and then the west in general and point out some recent, relevant, revealing, regional, resources that you can all avail yourselves of if you're interested in pursuing more information in any of the subjects.

So I am going to start with what's going on in the Northwest. The good news from our perspective is that there are now 500 megawatts of operating wind projects in the ground and serving customers in the Northwest. The last piece of information I gave you is a map of all of the different wind projects that have been proposed and are in the ground. On the flip side of that is a spreadsheet that talks about who is proposing and who are building and how many megawatts and where they are in the process. If you were looking at that map, as little as two years ago you would only have seen two dots, and that would have been the Vansycle project in Eastern Oregon and the Wyoming project in Carbon County, Wyoming.

The energy crisis certainly helped a lot because people were desperate to find renewable, not renewable but desperate to find any kind of energy resource that they could get their hands on quickly. One of the benefits of wind is that once permitted, and permitting processes vary in length, but once permitted you can build a wind project in six months or less. And we saw that specifically with the Stateline Project that received its permits and got itself in the ground in pretty much record time in order to meet the deadline that the federal government set for the expiration of the tax credits, which did expire on December 31, 2001, and they have since been extended to December 31, 2003. A further extension is included in the federal energy bill. It's anybody's guess whether the government will get to it or not.

I am really just going to focus on big wind today as opposed to little wind because I figure you would be more interested in big wind because it may be the case one of these projects will come to you for your evaluation. These projects tend to locate where the market is. They tend to locate where there's available transmission, and if you look at the map, you will see it pretty much tracks where the transmission is. You've got to go where the wind blows, and those are the

places obviously where the developers go first. And you also want to go places where there are few environmental impacts, and there's a lot of analysis being done right now about where those places are. I could tell you that although I can't say this out loud to too many people, there are ten developers who are looking at projects just in the State of Washington alone. There are 100 megawatts under construction right now. Fifty megawatts of geothermal actually, plus fifty megawatts of wind, and there are about 1,000 megawatts that are somewhere in the review process. Either the developers are signing up people to lease their land or they have actually made a proposal to the county government or they're somewhere in the process. There is a few more that people talk about at cocktail parties, but I'm not at liberty to talk about those today. So 500 megawatts in the ground, 100 under construction, 1,000 somewhere in the permitting process, and they're interestingly in the Northwest. There's quite a diversity of sponsors of these projects.

I understand that you took a field trip to the Stateline Project that FPL is constructing both in Oregon and Washington, and they're expanding that project. It started out at 263 megawatts. It's now up to 300, and they want to expand it again on I think on the Oregon side. And I look for the Oregon Siting Council with those proposals. So FPL is sort of a large developer. They're a subsidiary of Florida Power and Light. They're more the normal kind of entity.

Brett Wilcox who owns a couple aluminum plants took some of the money that he got from giving his power back to Bonneville, which he probably could have put in his pocket and instead he started himself a wind company called Northwestern Wind Power. They developed a project on the Oregon side of the border called Klondike, which is a 24-megawatt project. They're also one of the finalists in the Oregon Energy Trust process for expanding that to 100 megawatts. So aluminum companies don't always like renewable resources. This is kind of an interesting development. And then there is Energy Northwest that people usually think about in relation to Nuclear Power. They completed the Nine Canyon Wind Project near the Tri-Cities there. They're working on a second wind project. They actually gained three new members for their organization by investing in a wind project. So it isn't like it used to be. There's quite an interesting collection of individuals and companies involved in this.

Certainly the Bonneville Power Administration, Seattle City Light, and Pacific Power Marketing have been leaders on this. BPA did a 1,000-megawatt RFP during the peak of the energy crisis, and that brought a lot of activity to the region. Pacific Power Marketing bought the entire output of the Stateline Project. That said something, and again other people came to the region. So because they're pretty quick to build once you get permits, they have environmental benefits, they are local economic development benefits, and because citizens seem to want green power, those are all the reasons that the activity is underway in the Northwest.

On the policy side there are quite a few policies in all of the states, and I am just going to touch on some of the larger ones that have had meaning to large wind projects. Oregon as part of its restructuring law adopted a system benefit charge which reserves three percent of customers retail revenues and invests that in conservation and renewables, so there's steady investment over a ten-year time period. All that money goes to a freestanding nonprofit called the Energy Trust of Oregon, and they invest that money on behalf of ratepayers of PGE and PacifiCorp. There is a portfolio of green choices for small customers among those two utilities, and I'll talk about that a little bit later. There are tax credits and other things and also net metering. Montana also passed a restructuring bill and also had a system benefits charge. They spent most of their system benefit charge on distributed renewables and wanted to invest in the Black Feet Wind Project. The Black Feet Project did not end up going forward, so they're looking now at another

alternative. They also have some state policies that encourage the development of wind on state trust lands and also on Indian reservations and they also have net metering.

Washington has a very important policy, which is sales tax exemption for large renewable resources, and they've extended that to smaller renewable resources too. That's helped encourage developers to come to the State of Washington. You have a law that requires offering customers the green power project. You also have the net metering law. Net metering is, again, if you have the renewable resource on your home or business and it's producing power, you run the meter backwards and you just pay the net bill at the end of the month. And I mentioned that the federal government has a production tax credit which is an important element by the way. Production tax credit as opposed to investment tax credit in the '80s people wanted to do investment tax credits and encourage people to invest big piles of money. Instead they have put the emphasis on the production, so your project actually has to be in the ground and operating in order to capture the production tax credit which is worth about 1.7 cents a kilowatt hour for the first ten years of a project's life, and that has helped stimulate the market for wind in the country.

On the green power side I know that in your packets you have a copy of this which is our report summarizing all the green power programs, which there are now 23 in the Northwest. I think seven of them are in the State of Washington. Even though the thing that stands out to me is even though the economy has been in the toilet for the last year all around the West and really in the whole country, and for each of these green power programs there is always a premium involved if you want to be a customer who steps forward and signs up for green power you pay a little bit more and you get the green power, these programs the number of kilowatt hours being sold through these programs increased three fold in the last year. So there are three times more green kilowatt hours being sold this year than last year. I think that's pretty remarkable. Some of that is just there are more programs offering options, but some of it is that utilities and their partners are marketing these programs and educating customers and customers are responding, which I think is an interesting message being sent from customers directly to their utilities about what they prefer in terms of their energy choices.

The green power programs are a nice idea for people who have utilities who have not bought much on behalf of all customers. It allows an individual to step forward and purchase as much green power or as little green power as they feel they want to. It's not a substitute for policy though. It's a complimentary thing that goes along with policy, so we like markets and we like policy to work together. The market barriers for renewables are the same as they've always been. For renewable resources and wind in particular they're very capital-intensive resources. All the money isn't put in the machine in the ground because there's no fuel costs and there's no volatility, but there's also no spending on fuel, so the biggest cost is right up front, and it tends to be very low and stable over the long term. But we've got to face that hurdle on the front, and that becomes a problem for many utilities who for one reason or another don't always look at the long term. They look at the short term, and they tend to err on the side of resources that are cheap and short term and they will take their risk on the long term.

The second market barrier is the benefits that renewables provide, environmental benefits, economic development benefits, risk mitigation benefits. There is no real way to shoehorn those into the price. You know you won't agree on the value of an externality, so you can't really find a way to reflect that, and that's always been a barrier for renewables. Some people acknowledge that there's 500 megawatts in the ground. Other people have yet to find a way to embrace that. In many areas and indeed in the Northwest there's really been a lack of a consistent market. When you have an energy crisis and energy is on the front page of the newspapers everyday, you

have a lot of people showing interest in all kinds of energy resources and renewables in particular, and that's great. It tends to be the case that when the crisis is over, people forget that it happened and then amnesia sets in. They go back to their sort of previous ways of doing business. So my job is to fight amnesia.

And then on the siting side, there is inconsistency among the siting criteria used between counties and between states and between the federal government and the states on the criteria that are applied to renewable resources or wind in particular and the lack of information just because there isn't much experience doing this, so people have to gain some education and get some experience and try out some stuff before they feel confident about that.

On siting issues, in the early '80s the State of California led the way and invested in quite a bit of wind and energy. Twenty (20) different companies concentrated on 20 different technologies in an area called the Altamont Pass just east of San Francisco. So there's a very large piece of land. There were 7,000 turbines there representing 20 different companies and 20 different kinds of technology. It turned out to be a very bad place to put wind energy, and it was an area where there were a lot of raptors, and a lot of raptors were killed, and there have been quite a few studies done on this, and it turned out to be a really bad idea. For better or for worse the industry and the environmental community learned a good lesson from that bad story and did some work on the technology itself. Created instead of using lattice towers, the lattice things that could have birds perching on them now they use tubular towers, so there's no place for birds to sit. The turbines tend to be larger and slower, so that the hope is that birds will see them more clearly and be able to fly through them or fly around them. Instead of guy wires on the exterior, they varied the transmission lines and the cables between them, so there's fewer things in the air for birds to hit. But most importantly there's an analysis done in advance of the power project being implemented that allows you to know whether you've got a good or bad place to put the project, and it's my personal opinion that that has made the biggest difference.

If you look at all the modern wind projects around you see that the amount of bird-wind activity is very low, and I brought along an analysis that is available for anybody to look at. It's a report done by West, Inc., on behalf of the Bonneville Power Administration. It looked at all of the modern wind projects and made an analysis, a statistical analysis about how much research you have to do in advance of siting a wind project. And if you're going to be on agricultural land, and your land looks a lot like some of the other places where wind projects exist, then you probably need to do one season, so we can make a judgment about whether there's a high or medium or low bird activity there. If you are close to a source of water or if there are endangered species or threatened species, obviously you have to do more analysis. But we now have enough operating projects in and around the west to actually gather information from several years of operating data and make some judgments on how to go forward.

The good news though is that when you're looking at a wind project the kinds of impacts are different and much less than looking at a fossil fuel project or a nuke or any of the large facilities which I bet you spend most of your time on. They're different because they're distributed, and you've got like individual little power plants that all collect up. And the impact of these projects is a lot lower than their counterparts in the fossil fuel industry. No surprise, wind advocates in the industry are interested in clear and predictable and logical rules whether they exist on the county level or on the state level or on the federal level, so that there could be some expectation about what would be required and some consistency across the board, and a process that they could go through that could allow them to pass if they followed the rules.

The resources that are available like I say this MENA analysis looks at birds activity across all the projects in the west. Another issue that comes up is whether property values are degraded by the presence of a wind project, and EcoNorthwest did a report for the economic development group in Kittitas County which answers that question. It looked at projects that are similar to the ones being proposed there, and they did not find any adverse impact on property values and indeed a positive impact on economic development. The Northwest Energy Coalition has produced a report looking at the potential for renewables on conservation region done by the Tullis Institute and that's available through them. The Western Regional Air Partnership (WRAP), I don't know if you guys ever participate with them. It's a group of nine states that are trying to figure out a solution to the haze problem. I participated in one of the forums called the Air Pollution Prevention Forum, and the charge of that forum was to look at how this big region could meet the WRAP's 10/20 goals, and the 10/20 goals were 10 percent renewables in the region by 2005, 20 percent renewables by 2015. Pretty stiff charge there, but anyway there's been an analysis done on the economic side and on the air side finding that if each of the states that forward and implement policies that we actually could reduce the haze, we could do that in an economical fashion so long as we pair it with good energy efficiency. So anyway those are the kinds of reports that are out there.

I included my card, so you can find the resources if you ask me or they are also available through the web. By way of conclusion, I just want to say that the market is developing. It's a little lumpy at the moment, but the desire is also building within individual ratepayers and among some utilities around the region. The agencies are beginning to develop some expertise. We have been working directly with the Washington State Department of Fish and Wildlife and the Oregon Department of Fish and Wildlife and Bonneville to see if they can come to some agreement on a set of standards that would be reasonable to apply to this technology versus other technologies. There is a national proposal out there. Again, part of a national energy bill which is on life support at the moment, so I don't say it's going to happen today, but there is a proposal to adopt the national portfolio standard which would require utilities to include an increasing amount of new renewable content in their energy supply, and the goal is ten percent by 2020. There is a standard similar to that being discussed for the State of Washington. The State of California just adopted a 20 percent standard in their last legislative session. In Utah, Utah is even considering this, so there are quite a bit of activities going on. So I would not be surprised if you saw a proposal before you for a wind project, and that concludes my comments. I am happy to answer anybody's questions.

**CHAIR LUCE:** Questions from the Council?

**MS. FENTON:** Thank you very much for coming. I have a question for you. You indicated that there are currently 500 megawatts in the Northwest.

**MS. SHIMSHAK:** That's correct.

**MS. FENTON:** What's the footprint for 500 megawatts?

**MS. SHIMSHAK:** I knew you would ask that question. I wish I researched it better in advance. I want to say for every megawatt it's about an acre and not because the actual turbine takes up an acre, but by the time you figure in roads, you know, to service the project and all that kind of stuff I am just going to say that takes an acre.

**MS. FENTON:** Thank you.

**CHAIR LUCE:** Counsel questions?

**MR. FALLIS:** I have one. Can you generalize about where the good wind areas lie vis-a-vis transmission grid? How much of a transmission issue is there in tapping into these high quality wind areas?

**MS. SHIMSHAK:** There is more high-quality wind than there is transmission to get it to where the loads are. That is particularly true for the State of Montana. Montana has among the best wind resources in the country, and they have very little opportunity to get it into anywhere. Oregon and Washington don't have the best wind resources, but we do have transmission available and that's why we do have markets, and that's why you've seen the development of those projects. But if you look at the map that's there, you will see that all the projects pretty much line up on the transmission lines. The transmission availability question is the same for any resource as it is for wind. I think that in the near future there will be a judgment that needs to be made about whether or not to add additional transmission, and unfortunately you can't put a stop sign on the transmission and only allow certain kinds of electrons to come across and stop others. There is sufficient transmission for more wind at the moment at good sites, and those sites are being looked at right now in the State of Washington and around the region. At some point there will need to be a judgment made for any kind of resource.

**MR. FALLIS:** Thanks.

**MR. FIKSDAL:** Is there a rule of thumb on capacity for wind?

**MS. SHIMSHAK:** Yes, the capacity factor for wind we think of as somewhere between 30 and 35 percent, and some projects are better and some are worse. When power prices are lower in the market, you need a more energetic wind site. When they're higher, you can get away with less. That's the case for every resource except for the State of Montana and Wyoming, which are much closer to 40 percent. I don't know if you've been there in a car, but you open your car doors in Wyoming, and if you're not faced the right way, they blow off, so it's very energetic wind there, and it's very steady.

**CHAIR LUCE:** Any other questions?

**MS. FENTON:** When we looked at the Stateline Project, I think the manager there indicated that in order to operate a turbine they needed to have at least 15 miles an hour wind. Is that the case for most wind facilities?

**MS. SHIMSHAK:** The modern wind turbine can capture wind as low as 7 miles per hour and up to 60 miles per hour, but if you want to have wind that can generate enough economic activity to make it a commercially viable wind source, you have to have at least 14 mile an hour winds.

**MS. FENTON:** Thank you.

**CHAIR LUCE:** If you could, Rachel, give Allen the websites for staff for EcoNorthwest Report and the MEDER report and the Tullis Report, then staff could send them out to the Council Members and maybe we could review them. EcoNorthwest, is that the economic analysis group out of Eugene?

**MS. SHIMSHAK:** Yes. And the Phoenix group was the group that contracted with them. Phoenix is the economic development group in Kittitas County. They had EcoNorthwest actually do the analysis on their behalf.

**CHAIR LUCE:** Okay.

**MS. SHIMSHAK:** It's a very interesting report. I agree. And it has a nice executive summary.

**CHAIR LUCE:** Great. Thank you so much for coming. We really appreciate you taking the time.

**MS. SHIMSHAK:** Thank you. And if something occurs to you and you didn't have an opportunity to ask it, feel free to call or to e-mail any kind of questions that you have. I appreciate the time. Thanks a lot.

**MR. FRYHLING:** In this renewable resource, I think it's interesting that mother nature has a big part of this. Last week when I was on my way over here I went by the Stateline Project, and there wasn't one propeller moving. It was completely dead. It was in that cold spell, but three days before that we were out on the Hanford Reservation, and we got to see the solar, and the sun was shining. It was great. But then there wasn't any wind moving, so if we have both of them, we have a great opportunity to capture.

**CHAIR LUCE:** I was thinking about wind among other renewable resources is that you can effectively store water in the reservoirs, so you don't have to spill water. So when the wind is operating, it gives greater hydro flexibility, greater flexibility to the hydro system.

**MS. SHIMSHAK:** If I could add one point on that issue. Many of the developers could make money someplace else in the country, but the strategic advantage in the Northwest is the presence of the hydro system, and that makes a nice battery for these wind projects and is one of the reasons that there is so much activity up here even though generally speaking our rates are going to be low, and this provides a strategic opportunity that just isn't elsewhere in the country.

**CHAIR LUCE:** Thanks.

**MS. SHIMSHAK:** Thanks again.

#### **ITEM 14: OTHER**

**MS. FENTON:** Thank you for including the Chehalis greenhouse gas plan in our packages.

Did Chehalis send money to Ecology?

**MR. MILLS:** Yes, they did. I would like to note what I forgot to do under Chehalis Power. One of the SCA requirements is that Chehalis Power pay Ecology \$60,000 to cover their costs per the agreement, and I would like to report that Chehalis Power sent that check to the State Department of Ecology last week, and staff will issue a letter to the company closing that item out. It's under the water use conditions when they set the initial water use mitigation proposal. That's what triggered that, and it took us a while to find a place in Ecology that would take the money but once we found that.

**CHAIR LUCE:** Any other comments by Council Members? Anything else for the good of the order? Staff, anything else to add?

**MR. FIKSDAL:** The Executive Committee meeting is next Monday at 1:30 and we can discuss whatever is next on the rule discussion.

#### **ITEM 15: ADJOURN**

**CHAIR LUCE:** All right. We stand adjourned.

(Whereupon, the meeting was adjourned at 3:21 p.m.)